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as Trustee of PG&E Fire Victim Trust*

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

**In re:**

**PG&E CORPORATION,**

-and-

**PACIFIC GAS AND ELECTRIC  
COMPANY,**

**Debtors.**

- ☐ Affects PG&E Corporation  
☐ Affects Pacific Gas and Electric  
Company  
☒ Affects both Debtors

*\*All papers shall be filed in the Lead Case, No.  
19-30088 (DM).*

Bankruptcy Case No. 3:19-bk-030088 (DM)  
Chapter 11  
(Lead Case)  
(Jointly Administered)

**REPLY OF FIRE VICTIM TRUSTEE IN  
RESPONSE TO OBJECTION OF THERESA  
MCDONALD TO MOTION REGARDING  
EXCHANGE TRANSACTION IN SUPPORT  
OF A GRANTOR TRUST TAX ELECTION**

**Date:** April 28, 2021  
**Time:** 10:00 a.m.  
**Place:** (Telephonic or Video Only)  
Courtroom 17, 16<sup>th</sup> Fl.  
450 Golden Gate Ave.  
San Francisco, CA 94102

1 The Honorable John K. Trotter (Ret.), in his capacity as the Trustee (the “**Trustee**”) of the PG&E  
2 Fire Victim Trust (the “**Trust**,” and its beneficiaries, the “**Fire Victims**”), submits this Reply (the “**Reply**”)  
3 to the *Emergency Pleading: Objection to the Joint Motion of Fire Victim Trustee and Reorganized Debtors*  
4 *Regarding Exchange Transaction in Support of a Grantor Trust Election* [Docket No. 10517] (the  
5 “**McDonald Objection**”), and in further support of the Joint Motion of Fire Victim Trustee and  
6 Reorganized Debtors in Support of Motion Regarding Exchange Transaction in Support of a Grantor Trust  
7 Tax Election [Docket No. 10497] (the “**Motion**”),<sup>1</sup> and respectfully states as follows:

8 **REPLY**

9 The Motion seeks the Court’s authorization and approval of the Movants’ negotiated method of  
10 exercising a right of the Reorganized Debtors preserved in the Plan and Confirmation Order. The Trustee  
11 thoroughly considered all aspects of the Exchange Transaction Agreement in consultation with his advisors  
12 and concluded that the potential monetary value to the Trust in preserving hundreds of millions of Trust  
13 dollars—rather than using them to pay taxes—far outweighs any potential risks or costs associated with  
14 the Exchange Transaction Agreement. The concerns raised in the McDonald Objection do not directly  
15 bear on the narrow relief requested in the Motion. The agreement outlined in the Motion creates a mutually  
16 agreeable structure between the Movants to accomplish tax savings for the Trust and the Reorganized  
17 Debtors. The Reorganized Debtors’ Plan specifically provided a right to elect treatment of the Trust as a  
18 grantor trust for tax purposes. As set forth in the Motion, and as further explained in the concurrently filed  
19 Declaration of the Honorable John K. Trotter (Ret.) in his capacity as Trustee of the Trust, the Trustee has  
20 concluded and is confident that obtaining the relief requested in the Motion and then executing on it is in  
21 the best interests of the Fire Victims.

22 The Trustee acknowledges Ms. McDonald’s desire for information, disclosure, open  
23 communication, and ultimately her concerns regarding the treatment of Fire Victims under the Plan. Indeed,  
24 a major motivation for the Motion’s filing was disclosure to the Fire Victims. Open communication with  
25 Fire Victims is one of the Trustee’s top priorities, which is why the Trustee and the Claims Administrator  
26 regularly provide updates and information on Trust administration on the Trust’s website, issues letters to  
27 \_\_\_\_\_

28 <sup>1</sup> Capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Motion.

1 the Fire Victim community which are filed on this Court's docket as well as published in the Trust's  
2 website, and provide recorded interviews answering questions.

3 The agreement outlined in the Motion will create a structure between the Movants to accomplish  
4 tax savings for both Parties pursuant to the Reorganized Debtors' right under the Plan to elect grantor trust  
5 treatment for the Fire Victim Trust. The tax savings to the Trust materially benefit its beneficiaries, the  
6 Fire Victims, by eliminating any federal or state income tax on any gains obtained by the Trust's sale of  
7 PG&E stock. Neither the Trustee nor the Reorganized Debtors undertook to renegotiate the Plan terms,  
8 including the consideration provided to the Fire Victim Trust. The Trustee was required to accept the  
9 consideration provided to the Trust under the Plan and Confirmation Order and act in the manner that is in  
10 the best interests of the Trust's beneficiaries, the Fire Victims.

11 An Order granting the Motion will permit the Movants to finalize an agreement on the terms  
12 submitted in the Exchange Transaction Term Sheet, which discloses all material terms of the Exchange  
13 Transaction Agreement. The Trustee and Reorganized Debtors have competent advisors who are charged  
14 with documenting an agreement that correctly reflects the Exchange Transaction Term Sheet. The  
15 Reorganized Debtors' grantor trust election decision can be made as soon as the Motion is granted. Each  
16 week of delay in the Court granting the Motion simply adds costs and uncertainties and impacts the  
17 flexibility of the Trustee to monetize the PG&E Stock in a cost-effective manner. These circumstance  
18 support granting the Motion promptly.

19 The Trustee also addresses the specific points raised in the McDonald Objection as follows:

20 a) *Trust Communication with Represented Beneficiaries.*

21 The McDonald Objection states that Fire Victims that are "represented by attorneys, cannot get the  
22 answers to their questions because Trust personnel have consistently refused to answer any inquiries from  
23 represented beneficiaries, insisting that the [claimant's] attorney be involved." Obj. at p. 3. This is true but  
24 not remarkable; indeed, this policy is appropriate. The Claims Processor, BrownGreer, a law firm, has  
25 established the legal ethics-based policy that communications with Fire Victims represented by counsel are  
26 done through the counsel of record for that Fire Victim.

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1                    *b) Costs of Operating under the Exchange Transaction Agreement.*

2                    The McDonald Objection asks whether “entering into an Exchange Transaction Agreement [would]  
3 cause the Trust to experience costs that it would otherwise not incur?” Obj. at p. 3. The Trustee cannot  
4 guarantee that operating under the Exchange Transaction Agreement will not result in reasonable  
5 administrative expenses. The Trustee has, for example, incurred costs in negotiating the terms of the  
6 Exchange Transaction Agreement to obtain what is expected to be substantial economic benefits inuring  
7 to the benefit of Fire Victims. The Reorganized Debtors are not required to reimburse the Trust for  
8 administrative costs, including the administrative costs of the Exchange Transaction Agreement. *See*  
9 Confirmation Order [Docket No. 10517] at ¶ 18(o) (“Except as otherwise provided in Subparagraph h of  
10 this Paragraph 18, the Fire Victim Trust shall pay all expenses of the Fire Victim Trust from the assets of  
11 the Fire Victim Trust, as provided in the Fire Victim Trust Documents and under no circumstances shall  
12 any such expenses be paid by the Reorganized Debtors.”).

13                    *c) The State Agency Settlement Agreement.*

14                    The Proposed Order makes clear that the Exchange Transaction Agreement and the Trustee’s  
15 performance and implementation thereunder does not affect the State Agency Settlement Agreements, and  
16 that the sale of New Shares shall constitute New Holdco Common Stock (as defined in and for all purposes  
17 under the State Agency Settlement Agreement) [Docket No. 7399-2].

18                    The McDonald Objection asks if “the Trustee does not anticipate that the stock will be held long  
19 enough to reach a price where the State Agencies might actually be paid.” Obj. at p. 4. Based upon  
20 professional advice, the Trustee will not comment publicly on the Trust’s stock monetization timeline or  
21 strategy.

22                    *d) The “Final” Exchange Transaction Agreement and Further Objection Period.*

23                    The McDonald Objection requests the Court to require the final Exchange Transaction Agreement  
24 be provided “14 days prior to the objection deadline” so that Fire Victims may assess the final terms of the  
25 agreement and interpose additional objections prior to a future hearing. *See* Obj. at p. 5. The Trustee will  
26 publicly file with the Court and post on the Trust’s public-facing website the Exchange Transaction  
27 Agreement once it is executed by the parties thereto. Additionally, the results of California Fairness  
28 Hearing will be publicly available information.

1 The Trustee does ask that the Court reject the request for a further objection deadline and continued  
2 hearing. As part of the Motion, the Movants provided the eight-page (with exhibit) Exchange Transaction  
3 Term Sheet that set forth in detail the material terms of the Exchange Transaction Agreement. As noted in  
4 the Motion, the Exchange Transaction Agreement (and any Ancillary Agreements) will be based on  
5 “substantially the same terms” as the Exchange Transaction Term Sheet. *See* Motion at p. 5. The Exchange  
6 Transaction Term Sheet provides Fire Victims and other interested parties with notice of the material terms  
7 of the agreement and any interested party has had the opportunity to review the terms and raise their  
8 concerns to the Movants and the Court. The documentation of the final Exchange Transaction Agreement  
9 is still underway. The Trustee has committed to disclosing it to the Fire Victims once it is executed by the  
10 parties thereto. A further objection period and additional hearing(s) will only increase administrative  
11 expenses and uncertainties and interposes delay, which, while continuing, limits the flexibility of the  
12 Trustee to monetize in a cost-effective manner.

13 **NOTICE**

14 Notice of this Reply will be provided to (i) the Office of the U.S. Trustee for Region 17 (Attn:  
15 Timothy Laffredi, Esq., James L. Snyder, Esq. and Marta Villacorta, Esq.); (ii) the Securities and Exchange  
16 Commission; (iii) the Internal Revenue Service; (iv) the Office of the California Attorney General; (v) the  
17 California Public Utilities Commission; (vi) the Nuclear Regulatory Commission; (vii) the Federal  
18 Regulatory Commission; (viii) the Office of the United States Attorney for the Northern District of  
19 California; (ix) those persons who have formally appeared in these Chapter 11 Cases and requested service  
20 pursuant to Bankruptcy Rule 2002; and (x) beneficiaries of the Trust, through postings on the Trust website  
21 and portals in accordance with Section 8.6(d) of the Trust Agreement. The Movants respectfully submit  
22 that no further notice is required.

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1 **CONCLUSION**

2 WHEREFORE, for the good cause shown and reasons presented above, and in the Motion, the  
3 Movants respectfully request that the Court overrule the McDonald Objection and approve entry of an  
4 Order granting the relief requested and any further relief the Court may deem just and proper.  
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6 DATED: April 23, 2021

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